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5 **UNITED STATES DISTRICT COURT**
6 **DISTRICT OF NEVADA**

7
8 UNITED STATES OF AMERICA,

9 Plaintiff,

10 v.

11 BARBARA JEAN DENNIS,

12 Defendant.

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14 Case No. 2:10-CR-00091-KJD-GWF

15 **ORDER**

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17 Presently before the Court is Defendant's Motion to Continue the Sentencing Hearing Set for
18 Tuesday, July 27, 2016 at 9:00 a.m. (#299). The Government filed a response in partial opposition
19 (#300) to which Defendant replied (#301).

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21 Defendant's motion is predicated on three reasons. First, Defendant's stand-by counsel has a
22 prior commitment and thus is not able to be present for Defendant's sentencing hearing currently
23 scheduled for July 27, 2016. Second, Defendant indicates that she needs additional time to review
24 requested information from the F.B.I. which Defendant received on July 15, 2016, the same morning
she filed the instant Motion. According to Defendant, the information provided is "quite
voluminous." Third, according to Defendant, her Pre-Sentence Investigation Report (PSR) contains
misinformation forming the basis of a motion to compel (#292) which was pending at the time she
filed the instant Motion, but has since been granted by the Magistrate (#302).

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26 In her response to the Government's partial opposition, Defendant alleges that the F.B.I.
illegally searched and seized documents from her storage unit. While the Magistrate denied

1 Defendant's motion (#244) on the same claim, he did so without prejudice, permitting her to file a
2 motion including more than just "speculation" regarding the search and seizure (#288). Additionally,
3 Defendant is not permitted to raise new arguments in a reply. Further, the deadline to file a motion
4 to suppress has passed. Therefore, the Court will not address these additional arguments.

5 The Government does not oppose Defendant's motion to continue in order to allow stand-by
6 counsel to be present at sentencing. However, the Government opposes any further continuance
7 beyond what is necessary for that purpose.

8 Regarding the additional reasons set forth in the instant Motion, the Government permitted
9 Defendant to review documents received from a third-party to put to rest her claim that the
10 Government had conducted an illegal search and seizure. The Government contends that Defendant
11 requested copies of certain loan files unrelated to the charges against her in the indictment or to
12 which she has pled. According to the Government, the documents provided to Defendant consist of
13 only two pages. The additional time requested to accommodate stand-by counsel is adequate time
14 for Defendant to review the requested documents.

15 Regarding the alleged misinformation in Defendant's F.B.I. file, the Government contends
16 that the information in question is a list of aliases in the draft version of Defendant's PSR. The
17 Government provided a written response and objection to the PSR to Probation indicating which of
18 the aliases it believed adequate evidence of use existed and which it had no independent record of her
19 use. In his order dated July 21, 2016, the Magistrate ordered the F.B.I. to remove any incorrect
20 information from Defendant's file, thus rendering this argument moot.

21 As a result, Defendant has failed to make a showing warranting a continuance beyond what is
22 required for stand-by counsel's presence at the sentencing hearing currently scheduled for July 27,
23 2016.

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1 **IT IS THEREFORE ORDERED** that Defendant's Motion to Continue the Sentencing
2 Hearing Set for Tuesday, July 27, 2016 at 9:00 a.m. (#299) is **GRANTED in part**, to allow adequate
3 time for stand by counsel to be present and **DENIED in part**.

4 The hearing scheduled for July 27, 2016 at 9:00 a.m. is hereby vacated. This hearing is
5 rescheduled for August 8, 2016 at 9:00 a.m. in Courtroom 4A.

6 **IT IS SO ORDERED.**

7 DATED this 22nd day of July 2016.

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12 Kent J. Dawson
13 United States District Judge

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